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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,849	10/19/2001	Naoki Hino	16869P-034500US	9309

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EXAMINER

MANOSKEY, JOSEPH D

ART UNIT	PAPER NUMBER
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2113

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/039,849	Applicant(s) HINO ET AL.	
	Examiner Joseph Manoskey	Art Unit 2113	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/22/03</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on 9 September 2001. It is noted, however, that applicant has not filed a certified copy of the 2001-266629 application as required by 35 U.S.C. 119(b).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Winger et al., U.S. Patent 6,560,617, hereinafter referred to as "Winger".
4. Referring to claim 1, Winger discloses a file server system, "data storage system", that includes two or more storage devices that are remotely coupled to each other (See Fig. 1 and Col. 1, lines 24-27). Winger teaches the system having two file

servers, interpreted as host devices, coupled together via a network interface (See Fig. 1). Winger also discloses the system having mass storage controllers, interpreted as data transfer interfaces, each corresponding to a host device (See Fig. 1). Winger teaches the system having two storage devices that are coupled to one of the host devices and are coupled to each other by a remote copy interface (See Fig. 1). Winger discloses the storage devices being mirrored, this interpreted as having duplicated determining volumes respectively (See Col. 3, lines 52-54). Finally, Winger teaches when a failure is detected that the backup computer becomes the file server, this is interpreted as a determination function using the determining volumes in competition for an exclusive usage right among the host devices when a failure occurs, since only one is file server is used at a time, the other is either in backup mode or has failed (See Col. 2, lines 25-31).

5. Referring to claim 2, Winger teaches when a failure is detected that the backup computer becomes the file server, this is interpreted as an exclusive control function that controls the determining to determine one of the host devices exclusively, since only one is file server is used at a time, the other is either in backup mode or has failed (See Col. 2, lines 25-31).

6. Referring to claim 3, Winger discloses a file server system, "data storage system", that includes two or more storage devices that are remotely coupled to each other (See Fig. 1 and Col. 1, lines 24-27). Winger teaches the system having two file

servers, interpreted as host devices, coupled together via a network interface (See Fig. 1). Winger also discloses the system having mass storage controllers, interpreted as data transfer interfaces, each corresponding to a host device (See Fig. 1). Winger teaches the system having two storage devices that are coupled to one of the host devices and are coupled to each other by a remote copy interface (See Fig. 1). Winger discloses the storage devices being mirrored, this interpreted as having a commonly used paired volume made by the remote copy interface (See Col. 3, lines 52-54). Winger teaches the use the transmission of information, such as commands, for controlling both the primary server and the backup server using a mass storage emulator, this is interpreted as a first function for forwarding a reserve command issued from one of the hosts devices to exclusively use the paired volume by way of a paired volume control software, toward the storage device (See Col. 2, lines 1-15). Winger also teaches the returning results form the backup to the mass storage emulator on the file server, this is interpreted as a second function for receiving a normal end response from the storage device corresponding to the reserve command, for issuing a command from controlling the paired volume toward the storage device, and for issuing a transition command for changing an attribute of the paired volume (See Col. 2, lines 1-15). Finally Winger teaches the one server acting as the file server and the other being a backup, this is interpreted as the data storage system determines the host device that is received with the normal end response, as only one host device to access the paired volume (See Col. 2, lines 1-3).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following are closely related data storage systems.

U.S. Patent 5,845,328 to Maya et al.

U.S. Patent 6,671,704 to Gondi et al.

U.S. Patent 5,812,751 to Ekrot et al.

U.S. Patent 5,812,748 to Ohran et al.

U.S. Patent 6,681,339 to McKean et al.

U.S. Patent 5,742,792 to Yanai et al.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Manoskey whose telephone number is (703) 308-5466. The examiner can normally be reached on Mon.-Fri. (8am to 4:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (703) 305-9713. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2113

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JDM
July 20, 2004


ROBERT EFAUSOLIEL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100